

Senate Bill No. 484

Passed the Senate September 10, 2015

Secretary of the Senate

Passed the Assembly September 8, 2015

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2015, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 1507.6 and 1536 of, and to add Sections 1538.8 and 1538.9 to, the Health and Safety Code, and to amend Section 11469 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL’S DIGEST

SB 484, Beall. Juveniles.

(1) The California Community Care Facilities Act provides for the licensure and regulation of community care facilities, including foster family homes and group homes, by the State Department of Social Services. A violation of this act is a misdemeanor.

Under existing law, a child in a group home may receive mental health services, as deemed necessary by the placing agency and under the case management of that agency. Under existing law, only a juvenile court judicial officer may make orders regarding the administration of psychotropic medications to a child adjudged a dependent or ward of the court and removed from the physical custody of the parent. Existing law requires that the order be based on a request from a physician, indicating the reasons for the request and a description of the child’s diagnosis and behavior, among other requirements.

This bill would provide that psychotropic medications may be used at a group home, other than at a runaway and homeless youth shelter, only in accordance with the written directions of the physician prescribing the medication and as authorized by the juvenile court. The bill would require the group home to maintain in the child’s records specified information regarding the administration of those medications.

(2) Existing law requires the Director of Social Services, at least annually, to publish and make available to interested persons a list covering all licensed community care facilities, except as specified, and the services for which each facility has been licensed or issued a special permit.

This bill would require the department to compile specified information regarding the administration of psychotropic medications to children in group homes and to post that information

on the department's Internet Web site. The bill would require the department, in consultation with the State Department of Health Care Services and stakeholders, to establish a methodology to identify those group homes that have levels of psychotropic drug utilization warranting additional review, as specified. The bill would also require the department, for the facilities identified by the methodology that it establishes, to visit those facilities at least once a year to examine specified factors. The bill would authorize the department, following that inspection, to share relevant information and observations with county placing agencies, social workers, probation officers, the court, dependency counsel, or the Medical Board of California, or share relevant information and observations with the facility and require the facility to submit a plan to the department, within 30 days of receiving the department's information and observations, to address any identified risks within the control of the facility related to psychotropic medication. The bill would require the department to approve the plan and verify the plan's implementation to determine whether those identified risks have been remedied. Because the failure of the facility to comply with these provisions would be a misdemeanor, the bill would impose a state-mandated local program.

(3) Existing law requires the department, on or before January 1, 2016, in consultation with specified associations and other stakeholders, to develop additional performance standards and outcome measures that require group homes to implement programs and services to minimize law enforcement contacts with minors in group homes or under supervision of group home staff.

This bill would require the department, on or before January 1, 2017, in consultation with specified associations and other stakeholders, to develop additional performance standards and outcome measures that require group homes to implement alternative programs and services, as specified. The bill would make related changes.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 1507.6 of the Health and Safety Code is amended to read:

1507.6. (a) Mental health services, as deemed necessary by the placing agency, may be provided to children in a group home. Except for the physical safety and direct care and supervision of children so placed, the State Department of Social Services and its agents shall not evaluate or have responsibility or liability for the evaluation of mental health services provided in those homes. Supervision of mental health treatment services provided to a child in a group home shall be a case management responsibility of the placing agency.

(b) (1) Psychotropic medications shall be used only in accordance with the written directions of the physician prescribing the medication and as authorized by the juvenile court pursuant to Section 369.5 or 739.5 of the Welfare and Institutions Code.

(2) The facility shall maintain in a child's records all of the following information:

(A) A copy of any court order authorizing the psychotropic medication for the child.

(B) A separate log for each psychotropic medication prescribed for the child, showing all of the following:

(i) The name of the medication.

(ii) The date of the prescription.

(iii) The quantity of medication and number of refills initially prescribed.

(iv) When applicable, any additional refills prescribed.

(v) The required dosage and directions for use as specified in writing by the physician prescribing the medication, including any changes directed by the physician.

(vi) The date and time of each dose taken by the child.

(3) This subdivision does not apply to a runaway and homeless youth shelter, as defined in Section 1502.

SEC. 2. Section 1536 of the Health and Safety Code is amended to read:

1536. (a) (1) At least annually, the department shall publish and make available to interested persons a list or lists covering all licensed community care facilities, other than foster family homes and certified family homes of foster family agencies providing

24-hour care for six or fewer foster children, and the services for which each facility has been licensed or issued a special permit.

(2) For a group home, transitional housing placement provider, community treatment facility, runaway and homeless youth shelter, or short-term residential treatment center, the list shall include both of the following:

(A) The number of licensing complaints, types of complaint, and outcomes of complaints, including citations, fines, exclusion orders, license suspensions, revocations, and surrenders.

(B) The number, types, and outcomes of law enforcement contacts made by the facility staff or children, as reported pursuant to subdivision (a) of Section 1538.7.

(b) Subject to subdivision (c), to encourage the recruitment of foster family homes and certified family homes of foster family agencies, protect their personal privacy, and to preserve the security and confidentiality of the placements in the homes, the names, addresses, and other identifying information of facilities licensed as foster family homes and certified family homes of foster family agencies providing 24-hour care for six or fewer children shall be considered personal information for purposes of the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). This information shall not be disclosed by any state or local agency pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), except as necessary for administering the licensing program, facilitating the placement of children in these facilities, and providing names and addresses, upon request, only to bona fide professional foster parent organizations and to professional organizations educating foster parents, including the Foster and Kinship Care Education Program of the California Community Colleges.

(c) Notwithstanding subdivision (b), the department, a county, or a foster family agency may request information from, or divulge information to, the department, a county, or a foster family agency, regarding a prospective certified parent, foster parent, or relative caregiver for the purpose of, and as necessary to, conduct a reference check to determine whether it is safe and appropriate to license, certify, or approve an applicant to be a certified parent, foster parent, or relative caregiver.

(d) The department may issue a citation and, after the issuance of that citation, may assess a civil penalty of fifty dollars (\$50) per day for each instance of a foster family agency's failure to provide the department with the information required by subdivision (h) of Section 88061 of Title 22 of the California Code of Regulations.

(e) The Legislature encourages the department, when funds are available for this purpose, to develop a database that would include all of the following information:

(1) Monthly reports by a foster family agency regarding family homes.

(2) A log of family homes certified and decertified, provided by a foster family agency to the department.

(3) Notification by a foster family agency to the department informing the department of a foster family agency's determination to decertify a certified family home due to any of the following actions by the certified family parent:

(A) Violating licensing rules and regulations.

(B) Aiding, abetting, or permitting the violation of licensing rules and regulations.

(C) Conducting oneself in a way that is inimical to the health, morals, welfare, or safety of a child placed in that certified family home.

(D) Being convicted of a crime while a certified family parent.

(E) Knowingly allowing any child to have illegal drugs or alcohol.

(F) Committing an act of child abuse or neglect or an act of violence against another person.

(f) At least annually, the department shall post on its Internet Web site a statewide summary of the information gathered pursuant to Sections 1538.8 and 1538.9. The summary shall include only de-identified and aggregate information that does not violate the confidentiality of a child's identity and records.

SEC. 3. Section 1538.8 is added to the Health and Safety Code, to read:

1538.8. (a) (1) In order to review and evaluate the use of psychotropic medications in group homes, the department shall compile, to the extent feasible and not otherwise prohibited by law and based on information received from the State Department of Health Care Services, at least annually, information concerning each group home, including, but not limited to, the child welfare

psychotropic medication measures developed by the department and the following Healthcare Effectiveness Data and Information Set (HEDIS) measures related to psychotropic medications:

(A) Follow-Up Care for Children Prescribed Attention Deficit Hyperactivity Disorder Medication (HEDIS ADD), which measures the number of children 6 to 12 years of age, inclusive, who have a visit with a provider with prescribing authority within 30 days of the new prescription.

(B) Use of Multiple Concurrent Antipsychotics in Children and Adolescents (HEDIS APC), which does both of the following:

(i) Measures the number of children receiving an antipsychotic medication for at least 60 out of 90 days and the number of children who additionally receive a second antipsychotic medication that overlaps with the first.

(ii) Reports a total rate and age stratifications including 6 to 11 years of age, inclusive, and 12 to 17 years of age, inclusive.

(C) Use of First-Line Psychosocial Care for Children and Adolescents on Antipsychotics (HEDIS APP), which measures whether a child has received psychosocial services 90 days before through 30 days after receiving a new prescription for an antipsychotic medication.

(D) Metabolic Monitoring for Children and Adolescents on Antipsychotics (HEDIS APM), which does both of the following:

(i) Measures testing for glucose or HbA1c and lipid or cholesterol of a child who has received at least two different antipsychotic prescriptions on different days.

(ii) Reports a total rate and age stratifications including 6 to 11 years of age, inclusive, and 12 to 17 years of age, inclusive.

(2) The department shall post the list of data to be collected pursuant to this subdivision on the department's Internet Web site.

(b) The data in subdivision (a) concerning psychotropic medication, mental health services, and placement shall be drawn from existing data maintained by the State Department of Health Care Services and the State Department of Social Services and shared pursuant to a data sharing agreement meeting the requirements of all applicable state and federal laws and regulations.

(c) This section does not apply to a runaway and homeless youth shelter, as defined in Section 1502.

SEC. 4. Section 1538.9 is added to the Health and Safety Code, to read:

1538.9. (a) (1) (A) The department shall consult with the State Department of Health Care Services and stakeholders to establish a methodology for identifying those group homes providing care under the AFDC-FC program pursuant to Sections 11460 and 11462 of the Welfare and Institutions Code that have levels of psychotropic drug utilization warranting additional review. The methodology shall be adopted on or before July 1, 2016.

(B) Every three years after adopting the methodology developed under subparagraph (A), or earlier if needed, the department shall consult with the State Department of Health Care Services and stakeholders and revise the methodology, if necessary.

(2) If the department, applying the methodology described in paragraph (1), determines that a facility appears to have levels of psychotropic drug utilization warranting additional review, it shall inspect the facility at least once a year.

(3) The inspection of the facility shall include, but not be limited to, a review of the following:

(A) Plan of operation, policies, procedures, and practices.

(B) Child-to-staff ratios.

(C) Staff qualifications and training.

(D) Implementation of children's needs and services plan.

(E) Availability of psychosocial and other alternative treatments to the use of psychotropic medications.

(F) Other factors that the department determines contribute to levels of psychotropic drug utilization that warrant additional review.

(G) Confidential interviews of children residing in the facility at the time of the inspection.

(4) The inspection of the facility may include, but is not limited to, the following:

(A) Confidential interviews of children who resided in the facility within the last six months.

(B) Confidential discussions with physicians identified as prescribing the medications.

(b) Following an inspection conducted pursuant to this section, the department, as it deems appropriate, may do either or both of the following:

(1) Share relevant information and observations with county placing agencies, social workers, probation officers, the court, dependency counsel, or the Medical Board of California, as applicable.

(2) Share relevant information and observations with the facility and require the facility to submit a plan, within 30 days of receiving the information and observations from the department, to address any identified risks within the control of the facility related to psychotropic medication. The department shall approve the plan and verify implementation of the plan to determine whether those risks have been remedied.

(c) (1) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), until emergency regulations are filed with the Secretary of State, the department may implement this section through all-county letters or similar instructions.

(2) On or before January 1, 2017, the department shall adopt regulations to implement this section. The initial adoption, amendment, or repeal of a regulation authorized by this subdivision is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted for that purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code. After the initial adoption, amendment, or repeal of an emergency regulation pursuant to this section, the department may twice request approval from the Office of Administrative Law to readopt the regulation as an emergency regulation pursuant to Section 11346.1 of the Government Code. The department shall adopt final regulations on or before January 1, 2018.

(d) Nothing in this section does any of the following:

(1) Replaces or alters other requirements for responding to complaints and making inspections or visits to group homes, including, but not limited to, those set forth in Sections 1534 and 1538.

(2) Prevents or precludes the department from taking any other action permitted under any other law, including any regulation adopted pursuant to this chapter.

(e) This section does not apply to a runaway and homeless youth shelter, as defined in Section 1502.

SEC. 5. Section 11469 of the Welfare and Institutions Code is amended to read:

11469. (a) The department shall develop, following consultation with group home providers, the County Welfare Directors Association of California, the Chief Probation Officers of California, the County Behavioral Health Directors Association of California, the State Department of Health Care Services, and stakeholders, performance standards and outcome measures for determining the effectiveness of the care and supervision, as defined in subdivision (b) of Section 11460, provided by group homes under the AFDC-FC program pursuant to Sections 11460 and 11462. These standards shall be designed to measure group home program performance for the client group that the group home program is designed to serve.

(1) The performance standards and outcome measures shall be designed to measure the performance of group home programs in areas over which the programs have some degree of influence, and in other areas of measurable program performance that the department can demonstrate are areas over which group home programs have meaningful managerial or administrative influence.

(2) These standards and outcome measures shall include, but are not limited to, the effectiveness of services provided by each group home program, and the extent to which the services provided by the group home assist in obtaining the child welfare case plan objectives for the child.

(3) In addition, when the group home provider has identified as part of its program for licensing, ratesetting, or county placement purposes, or has included as a part of a child's case plan by mutual agreement between the group home and the placing agency, specific mental health, education, medical, and other child-related services, the performance standards and outcome measures may also measure the effectiveness of those services.

(b) Regulations regarding the implementation of the group home performance standards system required by this section shall be adopted no later than one year prior to implementation. The regulations shall specify both the performance standards system and the manner by which the AFDC-FC rate of a group home program shall be adjusted if performance standards are not met.

(c) Except as provided in subdivision (d), effective July 1, 1995, group home performance standards shall be implemented. Any

group home program not meeting the performance standards shall have its AFDC-FC rate, set pursuant to Section 11462, adjusted according to the regulations required by this section.

(d) A group home program shall be classified at rate classification level 13 or 14 only if all of the following are met:

(1) The program generates the requisite number of points for rate classification level 13 or 14.

(2) The program only accepts children with special treatment needs as determined through the assessment process pursuant to paragraph (2) of subdivision (a) of Section 11462.01.

(3) The program meets the performance standards designed pursuant to this section.

(e) Notwithstanding subdivision (c), the group home program performance standards system shall not be implemented prior to the implementation of the AFDC-FC performance standards system.

(f) On or before January 1, 2016, the department shall develop, following consultation with the County Welfare Directors Association of California, the Chief Probation Officers of California, the County Behavioral Health Directors Association of California, research entities, foster children, advocates for foster children, foster care provider business entities organized and operated on a nonprofit basis, Indian tribes, and other stakeholders, additional performance standards and outcome measures that require group homes to implement programs and services to minimize law enforcement contacts and delinquency petition filings arising from incidents of allegedly unlawful behavior by minors occurring in group homes or under the supervision of group home staff, including individualized behavior management programs, emergency intervention plans, and conflict resolution processes.

(g) On or before January 1, 2017, the department shall develop, following consultation with the County Welfare Directors Association of California, the Chief Probation Officers of California, the County Behavioral Health Directors Association of California, the Medical Board of California, research entities, foster children advocates for foster children, foster care provider business entities organized and operated on a nonprofit basis, Indian tribes, and other stakeholders, additional performance standards and outcome measures that require group homes to implement alternative programs and services, including

individualized behavior management programs, emergency intervention plans, and conflict resolution processes.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2015

Governor